

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

**BASF AGRO B.V., ARNHEM (NL),
WÄDENSWIL BRANCH, BAYER
S.A.S., and MERIAL LIMITED,**

Plaintiffs,

v.

CHEMINOVA, INC.,

Defendant.

Civil Action No. 10-cv-274

[PROPOSED] ORDER

Plaintiffs BASF AGRO B.V., ARNHEM (NL), WÄDENSWIL BRANCH, BAYER S.A.S., and MERIAL LIMITED filed a Motion To Dismiss All Pending Claims, Defenses, And Counterclaims Relating To U.S. Patent No. 6,881,848 Pursuant To Fed. R. Civ. P. 41(a)(2) [D.I. __]. It appearing to the Court that good cause exists for Plaintiffs' motion,

IT IS HEREBY ORDERED:

1. Count IV of Plaintiffs' Amended Complaint [D.I. 50] is hereby dismissed with prejudice with respect to the process for the manufacture of Cheminova's fipronil technical product identified in deposition exhibits PX 23 (CHEM 355200-218) and PX 92 (CHEM 365571-366409) and Defendant's September 30, 2010 Amended and Supplemental Objections and Responses to Plaintiffs' First Set of Interrogatories ("Cheminova's Current Process");

2. This dismissal is without prejudice with respect to any other process of manufacturing fipronil technical material employed by or for Cheminova, previously or in the future;

3. Cheminova's defenses and counterclaims relating to the '848 Patent ([D.I. 57], Answer ¶¶ 63-66; Affirmative Defenses ¶ 68; Counterclaims, Count I) are hereby dismissed with prejudice with respect to Cheminova's Current Process and without prejudice with respect to any other process employed by or for Cheminova, previously or in the future;

4. Each party is to bear its own costs and attorneys' fees with respect to any claims, defenses or counterclaims regarding U.S. Patent No. 6,881,848.

This the ____ day of June, 2011.
